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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,425	11/10/2003	Lloyd Junior Brasch		5164

7590 06/03/2005

Ken Campbell  
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EXAMINER

BENNETT, GEORGE B

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/705,425

Applicant(s)

BRASCH ET AL.

Examiner

G. Bradley Bennett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2003.  
2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-11 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 10 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Mertes. Mertes discloses a wiping device as claimed with a pair of wiping features 6; a catch 5 and a cap 2 as a continuous piece of material; and a strike 4 and a base 1 as a continuous piece of material. Items 1 and 2 can be considered a base or cap interchangeably. Therefore, Mertes discloses all the features of claims 1-7.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mertes in view of Michaels.
5. Mertes discloses the invention substantially as claimed. However, Mertes does not disclose that the base and cap exist as a continuous piece of material. Michaels discloses how a

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base and a cap member can exist as a continuous piece of material for the purpose of forming a living hinge to allow the two members to be easily brought together and separated (see col. 2, ll. 10-14). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the continuous living hinge piece as taught by Michaels in conjunction with the Mertes device for the purpose of simplifying the construction of the Mertes device.

### ***Response to Arguments***

6. Applicant's arguments filed 20 DEC 2004 and 20 APR 2005 have been fully considered but they are not persuasive. The applicant argues that a primary feature of the device is that it can be stored in a closed position. Likewise, the Mertes device may be stored in a closed position since the hinges do not have a means to bias them to an open position. The Michaels device was applied as a secondary reference above to demonstrate a living hinge, not to demonstrate storage in a closed position. Therefore, the applicant's argument stating that the Michaels reference cannot be stored in a closed position is not applicable to the rejection above.

7. In response to applicant's argument that Mertes is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, both the Mertes device and the claimed device *are* in the same field of endeavor, since both devices are meant to be closed and clean opposite surfaces of an object.

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8. The applicant further argues that Mertes does not disclose a latch. This is incorrect.

According to *Merriam-Webster's Collegiate Dictionary*, Tenth Edition, 1993, "latch" is defined as follows: " <sup>2</sup>latch *n* (13c) : any of various devices in which mating mechanical parts engage to fasten but usu. not to lock something:". Items 4 and 5 of Mertes clearly act together to form a latch as claimed because they are brought together to close the two arms of Mertes.

9. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both the Mertes device and Michaels device are in the same field of endeavor, which would be cleaning both sides of an object by inserting the object between two sets of cleaning pads. Therefore, it is maintained that through knowledge generally available to one of ordinary skill in the art it would have been obvious to combine features of the Mertes and Michaels devices in the manner as set forth above since both devices are known in the art and it is well known to use features of one cleaning device in combination with another cleaning device for the purpose of enhancing the cleaning device.

### ***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to G. Bradley Bennett whose telephone number is 571.272.2237.

The examiner can normally be reached on M-TH 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on 571.272.2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
G. Bradley Bennett  
Primary Examiner  
Art Unit 2859

gbb  
23 MAY 2005